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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/045,222	11/07/2001	Richard J. Gambino	A31982-I	3216

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BAKER & BOTTS  
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NEW YORK, NY 10112

EXAMINER
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RESAN, STEVAN A

ART UNIT	PAPER NUMBER
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1773

DATE MAILED: 03/06/2003

6

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/045,222

Applicant(s)

GAMBINO ET AL.

Examiner

Stevan A. Resan

Art Unit

1773

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 08 January 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 16,17,19-23 and 25-29 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 16,17,19-23 and 25-29 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

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1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 16, 17, 19-23 and 25-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dahlin et al US 6468678, Tolliver et al 6217252, and Lyman 3985588.

Dahlin et al discloses an article of manufacture which may broadly be considered a flexible magnet having magnetocrystalline anisotropic magnetic energy, which may comprise a substrate and a flexible magnetic coating fixedly attached to the substrate (See figures 1-4). The coating comprises magnetic particles in a binder matrix. The magnetic particles are preferably strontium ferrite ( Col 19 line 18 ) as in claims 28, 29 and meet the limitations of claims 17,19,23,25 ( Col 14 lines 37-38; Col 18 lines 48-50; Col 19 lines 39-40) and the matrix binder may be ethylene acrylic acid as in claims 28,29 ( Col 14 line 55). Since high coercivity magnetic particles are used at high loading levels the coercivity of the article would also fall in the range claimed by claims 21,27. The article may have an easy axis (See Col 19 lines 51-52; Col 22 lines 45-49.) Dahlin does not disclose the materials being thermally sprayed. However process limitations in article claims carry no weight unless they can be shown to produce a patentably distinct article.

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While Dahlin et al generally disclose all of the present claim limitations the examiner has added Tolliver et al US 6217252 for teaching the application of the magnetic particles by thermal spraying and Lyman US 3985588 for teaching that it was old in the art to make permanent magnets by spraying magnetic particles into a partially open mold (See Figure) and in which the particles are aligned (col 2 lines 39-40; Col 3 lines 20-61).

Therefore it would have been obvious to one of ordinary skill in the art that flexible permanent anisotropic magnets can be produced having the properties as claimed.

3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Shain is cited for teaching the production of polymer coated magnetic particles which may be directly molded without further compounding.

Lemelson is cited for teaching spraying barium ferrite magnetic particles onto a mold surface and fusing.

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stevan A. Resan whose telephone number is (703) 308-4287. The examiner can normally be reached on Tues-Fri from 7:30AM to 6:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Paul Thibodeau, can be reached on (703) \*308-2367. The fax phone number for the organization where this application or proceeding is

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assigned is (703) 305-7718

  
**STEVAN A. RESAN**  
**PRIMARY EXAMINER**